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11
12 **IN THE UNITED STATES BANKRUPTCY COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 In re:

Chapter 7 Proceedings

Case No. 2:09-bk-18416-CGC

15 STANLEY THOMAS LUND and
16 JUNE MARIE LUND, aka LUND
17 MORTGAGE,

18 Debtors.

19 THE BILTMORE BANK OF ARIZONA,

Adv. No. 2:09-ap-01577-CGC

20 Plaintiff,

21 vs.

**RESPONSE TO MOTION FOR
UNILATERAL PRETRIAL STATEMENT**

22 STANLEY THOMAS LUND and
23 JUNE MARIE LUND,

24 Defendants/Debtors.

25 Plaintiff, The Biltmore Bank of Arizona, by and through undersigned counsel,
26 hereby responds to the Defendants' Motion to file a Unilateral Pre-trial Statement.

27 On June 24, 2010, the Court conducted a hearing on Plaintiff's Motion for Partial
28 Summary Judgment. The Court took the matter under advisement. The Court also
continued a Rule 7016 Pre-trial Conference from August 4, 2010 to August 11, 2010, due

1 to counsel advising the Court he would be out of the country the week of August 2, 2010.
2 Counsel is checking e-mails and messages regularly while he is out of town, and there
3 were no calls as of 10:30 p.m., Europe time, August 4, 2010.
4

5 First, it frankly makes no sense to file a pre-trial statement until the Court rules on
6 the pending motion. Once a decision is rendered, the issue for trial will be better
7 determined. Second, if the Defendants' counsel wanted to send a draft pretrial statement
8 via email, undersigned counsel would have been more than happy to assist in filing a *joint*
9 statement - even while he was out of town. Further, counsel would have suggested it
10 would be more efficient for the parties to agree to file a Joint Pre-trial Statement shortly
11 *after* the Court issues its ruling. One phone call late in the afternoon, followed by filing a
12 unilateral statement, is hardly the type of acceptable communication this Court normally
13 observes.
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15

16 Accordingly, Plaintiff requests the Court direct that a Joint Pre-trial Statement be
17 filed within one week after the Court rules on the matter currently under advisement.
18

19 DATED this 5th day of August 2010.

20 MICHAEL W. CARMEL, LTD.

21
22 /s/ Howard A. Singer (006971) for
23 Michael W. Carmel
24 80 East Columbus Avenue
25 Phoenix, Arizona 85012-2334
26 Attorney for Plaintiff
27
28

1 COPY of the foregoing e-mailed
2 on August 5, 2010 to:

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10 /s/ Nancy G. Forty